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SUBJECT: KAZAKHSTAN: CIVIL SOCIETY DISAPPOINTED WITH KAZAKHSTAN'S
PROGRESS ON DEMOCRATIZATION AND HUMAN RIGHTS

1. (U) Sensitive but unclassified. Not for public Internet.

2. (SBU) SUMMARY: On June 22, several leading civil society activists briefed members of the diplomatic community in Astana on the status of Kazakhstan's democratic reform efforts. The activists asserted that, despite modest progress in some areas, the government has become tougher on opposition political parties, and there are problems in the areas of freedom of the press and freedom of religion. They urged the diplomatic community to continue pressing the Kazakhstani government for further reform. END SUMMARY.

3. (SBU) The briefing was attended by representatives of embassies of the United States, Great Britain, the Netherlands, Norway, Poland, the Czech Republic, and Hungary. The civil society attendees were Yevgeniy Zhovtis of the Human Rights Bureau, Ninel Fokina of the Almaty Helsinki Committee, Tamara Kaleyeva of the Adil Soz media-freedom NGO, Vera Tkachenko of the Legal Policy Research Center, and Daniyar Kanafin, an independent lawyer.

POLITICAL RIGHTS ON THE DECLINE?

4. (SBU) Yevgeny Zhovtis asserted that little progress has been made in implementing democratic reforms since Kazakhstan was selected to be 2010 OSCE chairman in November 2007. In fact, Zhovtis claimed that political reform has actually been "moving backward," and, further, that the government's approach to opposition political parties has become "more repressive." He listed several recent examples illustrating how the state has sought to take "control of society," and asserted that the recently-passed amendments to the law on political parties actually made it easier for the government to shut them down. Zhovtis maintained that OSCE member states are "closing their eyes" to continuing harassment, detentions, excessive and selective fines, and other human rights violations.

IMPROVEMENTS IN THE JUSTICE SYSTEM LAGGING

5. (SBU) Lawyer Daniyar Kanafin said that while he believes the Kazakhstani government recognizes its obligation to expand access to the justice system and to ensure due process in fair criminal trials, it has done little to implement such reforms. He pointed out that defendants continue to face a distinct disadvantage in the

courtroom: Kazakhstan's trial acquittal rate is just 0.9 percent, which, according to Kanafin, is a result of the fact that prosecutors and judges lack independence and are beholden to the executive officials who appoint them. In addition, defendants sometimes do not have access to professional legal representation, and in cases that involve classified or confidential information, defense attorneys are often barred from representing their clients because they lack the necessary security clearance. Kanafin also criticized the prosecutorial practice of using anonymous testimony in criminal court proceedings which cannot be cross-examined by the defense.

CONCERNS ABOUT DRAFT INTERNET LAW

¶6. (SBU) Adil Soz's Tamara Kaleeva told the participants that the government has recently taken a few positive steps to liberalize regulations on print media, but that more needs to be done to improve Kazakhstan's media environment. In particular, she stressed the need to decriminalize libel and put legal caps on damages awarded in civil libel cases. Kaleeva expressed great concern that the draft law on the Internet would give the authorities the ability to block access to websites presenting views and positions they do not agree with. (NOTE: We have raised our concerns about the Internet law with the Kazakhstani government on several occasions, urging the authorities to carefully consider the law in light of Kazakhstan's OSCE commitments to freedom of expression. END NOTE.)

RELIGIOUS FREEDOM: CURB YOUR ENTHUSIASM

¶7. (SBU) Ninel Fokina of the Almaty Helsinki Committee said that while the Constitutional Council's February decision to strike down as unconstitutional amendments to Kazakhstan's religion law,

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"persecution" of "non-traditional" religious groups and individual believers remains a problem. Fokina cautioned that outside observers became "too enthusiastic" following the Council's ruling and began overlooking other trends occurring in the country. One of the more prominent areas of concern, Fokina said, was the government's continued interference in the activities of missionaries from "non-traditional" religious groups. She pointed to the case of Elizaveta Drencheva, the Unification Church missionary who was recently sentenced to two years in prison on the basis of her teachings. While a court of appeals later commuted Drencheva's sentence, it did not vacate her guilty verdict -- which Fokina warned has left the door open to further government efforts to go after the group.

¶8. (SBU) COMMENT: We take a more nuanced view than the civil society activists about Kazakhstan's reform trajectory. The "pressure" on opposition parties this year simply cannot be compared to the problems of a few years ago, when key opposition leaders like Galymzhan Zhakiyanov and Mukhtar Ablyazov were jailed for several years following convictions on politically-motivated charges, and one -- Altynbek Sarsenbayev -- was assassinated. While some non-traditional minority religious groups continue to have problems with the authorities, others, such as the Jehovah's Witnesses, do not currently have significant outstanding issues. Overall, we see positive incremental progress on a variety of fronts -- such as the adoption the Madrid-related legislation -- and, not surprisingly, the occasional step backward -- such as the adoption of new Internet legislation. On a particularly positive note, Kazakhstan's civil society leaders directly participated in drafting the government's 2009-2012 National Human Rights Action Plan, which was recently signed by President Nazarbayev. The Presidential Human Rights Commission informed us on July 11 that the MFA will publicly present the Plan to the international community on September 9. END COMMENT.

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